

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7007

BILL NUMBER: HB 1438

NOTE PREPARED: Apr 24, 2003

BILL AMENDED: Apr 23, 2003

SUBJECT: Pharmacy Matters.

FIRST AUTHOR: Rep. Welch

FIRST SPONSOR: Sen. Dillon

BILL STATUS: Enrolled

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: This bill changes pharmacist intern and extern registration renewal time frames. The bill specifies allocation of pharmacist licensure fees. It requires the Indiana Board of Pharmacy to establish fines of at least \$25 for specified violations. It removes the expiration provision that allows pharmacists to refill prescriptions in emergencies. The bill also removes the responsibility of the State Police Department for the Controlled Substance Prescription Monitoring Program and assigns those responsibilities to the Controlled Substances Advisory Committee and the Health Professions Bureau.

Effective Date: Upon Passage; July 1, 2003.

Explanation of State Expenditures: *Controlled Substances Advisory Committee* - Through the Controlled Substances Advisory Committee, the Health Professions Bureau (HPB) currently funds the administration of the Controlled Substances Prescription Monitoring Program. The HPB contracts with the State Police Department to administer the program at a cost of approximately \$102,000 from its General Fund appropriation. Removing the Department's administrative responsibility and shifting it to the Advisory Committee would have no fiscal impact on the State Police Department.

This provision also requires a portion of the controlled substance registration fees be deposited in the Controlled Substances Data Fund, which currently exists as a dedicated fund (See Explanation of State Revenues). This would allow the HPB to use those funds to cover the costs of the Program, thus eliminating that expenditure from the HPB's appropriation from the General Fund.

Explanation of State Revenues: *Pharmacist Intern/Extern Registration* - This provision decreases the length of time a pharmacist intern or extern registration is valid from six years to one year. It also provides

for the registration to be renewed by the Board for an additional year until an expiration date set by the HPB. Assuming the \$10 fee does not change and the registration may be renewed for five additional years, the Board would receive a total of \$60 per registration in fee revenue over six years. According to the HPB, there are 2,092 registered pharmacist intern/externs as of October, 2002. If each of these interns/externs renew their registrations every year for the next five years, an additional \$104,600 in fee revenue would be generated (or \$20,920 would be generated annually). This money would be deposited in the state's General Fund.

Pharmacist License Renewal Fee - This provision changes the structure by which the pharmacist license renewal fee is collected and allocated. Currently, the Board sets the renewal fees under administrative rules. The current statute also allows that a \$10 fee may be collected, in addition to the renewal fee, to be deposited in the Impaired Pharmacist Account. This bill eliminates the additional fee and instead requires the lesser of the following amounts to be deposited in the Impaired Pharmacist Account: either 16% of the license renewal fee; or the amount per license that is needed to operate the Impaired Pharmacists program. Because license fees are deposited in the state's General Fund, any transfers would come from the General Fund to the Impaired Pharmacist Account.

Currently, the HPB expends \$35,000 annually to run the Impaired Pharmacist program. As of March 11, 2003, the Impaired Pharmacist account had a balance of \$215,533. If the cost of running the program remains constant, the remaining balance in the Account would be sufficient to run the program for nearly six years. (IC 25-26-13-30 provides a continuing appropriation of existing funds in the dedicated account for administration of the Impaired Pharmacist program.) After the funds are depleted in this account, either of the two amounts listed above would be transferred from the General Fund to the Impaired Pharmacist Account, unless the HPB increases the license renewal fee to offset the amount being transferred. The fiscal impact of this provision is dependent upon administrative action.

Controlled Substances Advisory Committee - This provision specifies that 16% of the controlled substances registration fees are to be deposited in the Controlled Substances Data Fund. Currently, the fees are deposited in the Pharmacist Account of the General Fund. The Controlled Substances Data Fund provides for the operation of the Central Repository for Controlled Substances, which is responsible for the costs of the Controlled Substance Prescription Monitoring Program.

A controlled substances' registration, and renewal, for practitioners costs \$60. The registration fee for distributors, manufacturers, and for dispense, research, instruction, and chemical analysis, cost \$100. The HPB reports approximately 23,500 total controlled substances registrations. Sixteen percent of the revenue generated from these registrations is approximately \$118,000. If the number of registrations remains the same, this amount would be redirected from the General Fund to the Controlled Substances Data Fund. Conversely, the corresponding expenditures are also being removed from the General Fund (See Explanation of State Expenditures).

Penalty Provision - Under current law, pharmacists may refill a prescription for any drug in an emergency if the pharmacist follows the procedure set in statute. The penalty for violating this procedure is a Class A infraction. This law is set to expire June 30, 2003, however, this provision removes the expiration provision. If the penalty does not expire, it could have the following fiscal impact. If additional court cases occur, revenue to the state General Fund may increase if infraction judgments and court fees are collected. The maximum judgment for a Class A infraction is \$10,000 which is deposited in the state General Fund. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed. 70% of the court fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in

a city or town court.

If the penalty was left to expire, the threat of possible charges against the pharmacists would be eliminated for such a violation and the state would avoid potential costs.

Violation Fines - This provision allows the Board to establish fines for violations of the laws pertaining to pharmacists, pharmacies, drug stores, those engaging in the wholesale distribution of legend drugs, and those who hold controlled substance registrations. The fines may not be less than \$25; the fiscal impact is dependent on the actual amounts set by the Board and the number of times violations occur.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Penalty Provision* - If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Health Professions Bureau; State Police Department.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Matt Hopper, Health Professions Bureau, (317) 234-1985.

Fiscal Analyst: Valerie Ruda, 317-232-9867